

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Petition to Revoke
Probation Against:

LUIS LANDICHO EMPALMADO

Registered Nurse License No. 514907

Respondent

Case No. 2007-39

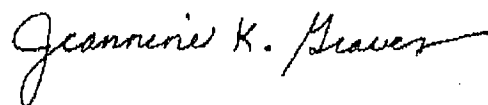
OAH No. L-2010050852

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in the above entitled matter.

This Decision shall become effective on **February 19, 2011**.

IT IS SO ORDERED **January 20, 2011**.



President
Board of Registered Nursing
Department of Consumer Affairs
State of California

1 EDMUND G. BROWN JR.
Attorney General of California
2 KAREN B. CHAPPELLE
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7
8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Petition to Revoke
11 Probation Against:

Case No. 2007-39

12 **LUIS LANDICHO EMPALMADO**
13 **1432 El Paso Drive**
Los Angeles, CA 90065
14 **Registered Nurse License No. RN 514907**

OAH No. L-2010050852
STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

15 Respondent.

16
17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
18 entitled proceedings that the following matters are true:

19 PARTIES

20 1. Louise R. Bailey, M.Ed., RN (Complainant) is the Interim Executive Officer of the
21 Board of Registered Nursing. She brought this action solely in her official capacity and is
22 represented in this matter by Edmund G. Brown Jr., Attorney General of the State of California,
23 by Thomas L. Rinaldi, Deputy Attorney General.

24 2. Luis Landicho Empalmado (Respondent) is representing himself in this proceeding
25 and has chosen not to exercise his right to be represented by counsel.

26 3. On or about August 24, 1995, the Board of Registered Nursing issued Registered
27 Nurse License No. RN 514907 to Respondent. The Registered Nurse License was in full force
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1 and effect at all times relevant to the charges brought in Petition to Revoke Probation No. 2007-
2 39 and will expire on November 30, 2010, unless renewed.

3 JURISDICTION

4 4. Petition to Revoke Probation No. 2007-39 was filed before the Board of Registered
5 Nursing (Board), Department of Consumer Affairs, and is currently pending against Respondent.
6 The Petition to Revoke Probation and all other statutorily required documents were properly
7 served on Respondent on April 26, 2010. Respondent timely filed his Notice of Defense
8 contesting the Petition to Revoke Probation. A copy of Petition to Revoke Probation No. 2007-
9 39 is attached as exhibit A and incorporated herein by reference.

10 ADVISEMENT AND WAIVERS

11 5. Respondent has carefully read, and understands the charges and allegations in Petition
12 to Revoke Probation No. 2007-39. Respondent has also carefully read, and understands the
13 effects of this Stipulated Settlement and Disciplinary Order.

14 6. Respondent is fully aware of his legal rights in this matter, including the right to a
15 hearing on the charges and allegations in the Petition to Revoke Probation; the right to be
16 represented by counsel at his own expense; the right to confront and cross-examine the witnesses
17 against him; the right to present evidence and to testify on his own behalf; the right to the
18 issuance of subpoenas to compel the attendance of witnesses and the production of documents;
19 the right to reconsideration and court review of an adverse decision; and all other rights accorded
20 by the California Administrative Procedure Act and other applicable laws.

21 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
22 every right set forth above.

23 CULPABILITY

24 8. Respondent admits the truth of each and every charge and allegation in Petition to
25 Revoke Probation No. 2007-39.

26 9. Respondent agrees that his Registered Nurse License is subject to discipline and he
27 agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order
28 below.

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1 distinct condition. If any condition of this Order, or any application thereof, is declared
2 unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other
3 applications thereof, shall not be affected. Each condition of this Order shall separately be valid
4 and enforceable to the fullest extent permitted by law.

5 1. **Obey All Laws.** Respondent shall obey all federal, state and local laws. A
6 full and detailed account of any and all violations of law shall be reported by Respondent to the
7 Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of
8 compliance with this condition, Respondent shall submit completed fingerprint forms and
9 fingerprint fees within 45 days of the effective date of the decision, unless previously submitted
10 as part of the licensure application process.

11 2. **Comply with the Board's Probation Program.** Respondent shall fully
12 comply with the conditions of the Probation Program established by the Board and cooperate with
13 representatives of the Board in its monitoring and investigation of the Respondent's compliance
14 with the Board's Probation Program. Respondent shall inform the Board in writing within no
15 more than 15 days of any address change and shall at all times maintain an active, current license
16 status with the Board, including during any period of suspension.

17 Upon successful completion of probation, Respondent's license shall be fully restored.

18 3. **Report in Person.** Respondent, during the period of probation, shall
19 appear in person at interviews/meetings as directed by the Board or its designated representatives.

20 4. **Residency, Practice, or Licensure Outside of State.** Periods of residency
21 or practice as a registered nurse outside of California shall not apply toward a reduction of this
22 probation time period. Respondent's probation is tolled, if and when he resides outside of
23 California. Respondent must provide written notice to the Board within 15 days of any change of
24 residency or practice outside the state, and within 30 days prior to re-establishing residency or
25 returning to practice in this state.

26 Respondent shall provide a list of all states and territories where he has ever been licensed
27 as a registered nurse, vocational nurse, or practical nurse. Respondent shall further provide
28 information regarding the status of each license and any changes in such license status during the

1 term of probation. Respondent shall inform the Board if he applies for or obtains a new nursing
2 license during the term of probation.

3 **5. Submit Written Reports.** Respondent, during the period of probation,
4 shall submit or cause to be submitted such written reports/declarations and verification of actions
5 under penalty of perjury, as required by the Board. These reports/declarations shall contain
6 statements relative to Respondent's compliance with all the conditions of the Board's Probation
7 Program. Respondent shall immediately execute all release of information forms as may be
8 required by the Board or its representatives.

9 Respondent shall provide a copy of this Decision to the nursing regulatory agency in every
10 state and territory in which he has a registered nurse license.

11 **6. Function as a Registered Nurse.** Respondent, during the period of
12 probation, shall engage in the practice of registered nursing in California for a minimum of 24
13 hours per week for 6 consecutive months or as determined by the Board.

14 For purposes of compliance with the section, "engage in the practice of registered nursing"
15 may include, when approved by the Board, volunteer work as a registered nurse, or work in any
16 non-direct patient care position that requires licensure as a registered nurse.

17 The Board may require that advanced practice nurses engage in advanced practice nursing
18 for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

19 If Respondent has not complied with this condition during the probationary term, and
20 Respondent has presented sufficient documentation of his good faith efforts to comply with this
21 condition, and if no other conditions have been violated, the Board, in its discretion, may grant an
22 extension of Respondent's probation period up to one year without further hearing in order to
23 comply with this condition. During the one year extension, all original conditions of probation
24 shall apply.

25 **7. Employment Approval and Reporting Requirements.** Respondent shall
26 obtain prior approval from the Board before commencing or continuing any employment, paid or
27 voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all
28 performance evaluations and other employment related reports as a registered nurse upon request

1 of the Board.

2 Respondent shall provide a copy of this Decision to his employer and immediate
3 supervisors prior to commencement of any nursing or other health care related employment.

4 In addition to the above, Respondent shall notify the Board in writing within seventy-two
5 (72) hours after he obtains any nursing or other health care related employment. Respondent
6 shall notify the Board in writing within seventy-two (72) hours after he is terminated or separated,
7 regardless of cause, from any nursing, or other health care related employment with a full
8 explanation of the circumstances surrounding the termination or separation.

9 8. **Supervision.** Respondent shall obtain prior approval from the Board
10 regarding Respondent's level of supervision and/or collaboration before commencing or
11 continuing any employment as a registered nurse, or education and training that includes patient
12 care.

13 Respondent shall practice only under the direct supervision of a registered nurse in good
14 standing (no current discipline) with the Board of Registered Nursing, unless alternative methods
15 of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are
16 approved.

17 Respondent's level of supervision and/or collaboration may include, but is not limited to the
18 following:

19 (a) Maximum - The individual providing supervision and/or collaboration is present in
20 the patient care area or in any other work setting at all times.

21 (b) Moderate - The individual providing supervision and/or collaboration is in the patient
22 care unit or in any other work setting at least half the hours Respondent works.

23 (c) Minimum - The individual providing supervision and/or collaboration has person-to-
24 person communication with Respondent at least twice during each shift worked.

25 (d) Home Health Care - If Respondent is approved to work in the home health care
26 setting, the individual providing supervision and/or collaboration shall have person-to-person
27 communication with Respondent as required by the Board each work day. Respondent shall
28 maintain telephone or other telecommunication contact with the individual providing supervision

1 and/or collaboration as required by the Board during each work day. The individual providing
2 supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to
3 patients' homes visited by Respondent with or without Respondent present.

4 **9. Employment Limitations.** Respondent shall not work for a nurse's
5 registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a
6 traveling nurse, or for an in-house nursing pool.

7 Respondent shall not work for a licensed home health agency as a visiting nurse unless the
8 registered nursing supervision and other protections for home visits have been approved by the
9 Board. Respondent shall not work in any other registered nursing occupation where home visits
10 are required.

11 Respondent shall not work in any health care setting as a supervisor of registered nurses.
12 The Board may additionally restrict Respondent from supervising licensed vocational nurses
13 and/or unlicensed assistive personnel on a case-by-case basis.

14 Respondent shall not work as a faculty member in an approved school of nursing or as an
15 instructor in a Board approved continuing education program.

16 Respondent shall work only on a regularly assigned, identified and predetermined
17 worksite(s) and shall not work in a float capacity.

18 If Respondent is working or intends to work in excess of 40 hours per week, the Board may
19 request documentation to determine whether there should be restrictions on the hours of work.

20 **10. Complete a Nursing Course(s).** Respondent, at his own expense, shall
21 enroll and successfully complete a course(s) relevant to the practice of registered nursing no later
22 than six months prior to the end of his probationary term.

23 Respondent shall obtain prior approval from the Board before enrolling in the course(s).
24 Respondent shall submit to the Board the original transcripts or certificates of completion for the
25 above required course(s). The Board shall return the original documents to Respondent after
26 photocopying them for its records.

27 **11. Violation of Probation.** If Respondent violates the conditions of his
28 probation, the Board after giving Respondent notice and an opportunity to be heard, may set aside

1 the stay order and impose the stayed discipline (revocation/suspension) of Respondent's license.

2 If during the period of probation, an accusation or petition to revoke probation has been
3 filed against Respondent's license or the Attorney General's Office has been requested to prepare
4 an accusation or petition to revoke probation against Respondent's license, the probationary
5 period shall automatically be extended and shall not expire until the accusation or petition has
6 been acted upon by the Board.

7 12. **License Surrender.** During Respondent's term of probation, if he ceases
8 practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of
9 probation, Respondent may surrender his license to the Board. The Board reserves the right to
10 evaluate Respondent's request and to exercise its discretion whether to grant the request, or to
11 take any other action deemed appropriate and reasonable under the circumstances, without further
12 hearing. Upon formal acceptance of the tendered license and wall certificate, Respondent will no
13 longer be subject to the conditions of probation.

14 Surrender of Respondent's license shall be considered a disciplinary action and shall
15 become a part of Respondent's license history with the Board. A registered nurse whose license
16 has been surrendered may petition the Board for reinstatement no sooner than the following
17 minimum periods from the effective date of the disciplinary decision:

18 (1) Two years for reinstatement of a license that was surrendered for any reason other
19 than a mental or physical illness; or

20 (2) One year for a license surrendered for a mental or physical illness.

21 13. **Physical Examination.** Within 45 days of the effective date of this
22 Decision, Respondent, at his expense, shall have a licensed physician, nurse practitioner, or
23 physician assistant, who is approved by the Board before the assessment is performed, submit an
24 assessment of the Respondent's physical condition and capability to perform the duties of a
25 registered nurse. Such an assessment shall be submitted in a format acceptable to the Board. If
26 medically determined, a recommended treatment program will be instituted and followed by the
27 Respondent with the physician, nurse practitioner, or physician assistant providing written reports
28 to the Board on forms provided by the Board.

1 If Respondent is determined to be unable to practice safely as a registered nurse, the
2 licensed physician, nurse practitioner, or physician assistant making this determination shall
3 immediately notify the Board and Respondent by telephone, and the Board shall request that the
4 Attorney General's office prepare an accusation or petition to revoke probation. Respondent shall
5 immediately cease practice and shall not resume practice until notified by the Board. During this
6 period of suspension, Respondent shall not engage in any practice for which a license issued by
7 the Board is required until the Board has notified Respondent that a medical determination
8 permits Respondent to resume practice. This period of suspension will not apply to the reduction
9 of this probationary time period.

10 If Respondent fails to have the above assessment submitted to the Board within the 45-day
11 requirement, Respondent shall immediately cease practice and shall not resume practice until
12 notified by the Board. This period of suspension will not apply to the reduction of this
13 probationary time period. The Board may waive or postpone this suspension only if significant,
14 documented evidence of mitigation is provided. Such evidence must establish good faith efforts
15 by Respondent to obtain the assessment, and a specific date for compliance must be provided.
16 Only one such waiver or extension may be permitted.

17 **14. Participate in Treatment/Rehabilitation Program for Chemical**
18 **Dependence.** Respondent, at his expense, shall successfully complete during the probationary
19 period or shall have successfully completed prior to commencement of probation a Board-
20 approved treatment/rehabilitation program of at least six months duration. As required, reports
21 shall be submitted by the program on forms provided by the Board. If Respondent has not
22 completed a Board-approved treatment/rehabilitation program prior to commencement of
23 probation, Respondent, within 45 days from the effective date of the decision, shall be enrolled in
24 a program. If a program is not successfully completed within the first nine months of probation,
25 the Board shall consider Respondent in violation of probation.

26 Based on Board recommendation, each week Respondent shall be required to attend at least
27 one, but no more than five 12-step recovery meetings or equivalent (e.g., Narcotics Anonymous,
28 Alcoholics Anonymous, etc.) and a nurse support group as approved and directed by the Board.

1 If a nurse support group is not available, an additional 12-step meeting or equivalent shall be
2 added. Respondent shall submit dated and signed documentation confirming such attendance to
3 the Board during the entire period of probation. Respondent shall continue with the recovery plan
4 recommended by the treatment/rehabilitation program or a licensed mental health examiner
5 and/or other ongoing recovery groups.

6 **15. Abstain from Use of Psychotropic (Mood-Altering) Drugs.** Respondent
7 shall completely abstain from the possession, injection or consumption by any route of all
8 controlled substances and all psychotropic (mood altering) drugs, including alcohol, except when
9 the same are ordered by a health care professional legally authorized to do so as part of
10 documented medical treatment. Respondent shall have sent to the Board, in writing and within
11 fourteen (14) days, by the prescribing health professional, a report identifying the medication,
12 dosage, the date the medication was prescribed, the Respondent's prognosis, the date the
13 medication will no longer be required, and the effect on the recovery plan, if appropriate.

14 Respondent shall identify for the Board a single physician, nurse practitioner or physician
15 assistant who shall be aware of Respondent's history of substance abuse and will coordinate and
16 monitor any prescriptions for Respondent for dangerous drugs, controlled substances or mood-
17 altering drugs. The coordinating physician, nurse practitioner, or physician assistant shall report
18 to the Board on a quarterly basis Respondent's compliance with this condition. If any substances
19 considered addictive have been prescribed, the report shall identify a program for the time limited
20 use of any such substances.

21 The Board may require the single coordinating physician, nurse practitioner, or physician
22 assistant to be a specialist in addictive medicine, or to consult with a specialist in addictive
23 medicine.

24 **16. Submit to Tests and Samples.** Respondent, at his expense, shall
25 participate in a random, biological fluid testing or a drug screening program which the Board
26 approves. The length of time and frequency will be subject to approval by the Board.
27 Respondent is responsible for keeping the Board informed of Respondent's current telephone
28 number at all times. Respondent shall also ensure that messages may be left at the telephone

1 number when he is not available and ensure that reports are submitted directly by the testing
2 agency to the Board, as directed. Any confirmed positive finding shall be reported immediately
3 to the Board by the program and Respondent shall be considered in violation of probation.

4 In addition, Respondent, at any time during the period of probation, shall fully cooperate
5 with the Board or any of its representatives, and shall, when requested, submit to such tests and
6 samples as the Board or its representatives may require for the detection of alcohol, narcotics,
7 hypnotics, dangerous drugs, or other controlled substances.

8 If Respondent has a positive drug screen for any substance not legally authorized and not
9 reported to the coordinating physician, nurse practitioner, or physician assistant, and the Board
10 files a petition to revoke probation or an accusation, the Board may suspend Respondent from
11 practice pending the final decision on the petition to revoke probation or the accusation. This
12 period of suspension will not apply to the reduction of this probationary time period.

13 If Respondent fails to participate in a random, biological fluid testing or drug screening
14 program within the specified time frame, Respondent shall immediately cease practice and shall
15 not resume practice until notified by the Board. After taking into account documented evidence
16 of mitigation, if the Board files a petition to revoke probation or an accusation, the Board may
17 suspend Respondent from practice pending the final decision on the petition to revoke probation
18 or the accusation. This period of suspension will not apply to the reduction of this probationary
19 time period.

20 17. **Mental Health Examination.** Respondent shall, within 45 days of the
21 effective date of this Decision, have a mental health examination including psychological testing
22 as appropriate to determine his capability to perform the duties of a registered nurse. The
23 examination will be performed by a psychiatrist, psychologist or other licensed mental health
24 practitioner approved by the Board. The examining mental health practitioner will submit a
25 written report of that assessment and recommendations to the Board. All costs are the
26 responsibility of Respondent. Recommendations for treatment, therapy or counseling made as a
27 result of the mental health examination will be instituted and followed by Respondent.

28 If Respondent is determined to be unable to practice safely as a registered nurse, the

1 licensed mental health care practitioner making this determination shall immediately notify the
2 Board and Respondent by telephone, and the Board shall request that the Attorney General's
3 office prepare an accusation or petition to revoke probation. Respondent shall immediately cease
4 practice and may not resume practice until notified by the Board. During this period of
5 suspension, Respondent shall not engage in any practice for which a license issued by the Board
6 is required, until the Board has notified Respondent that a mental health determination permits
7 Respondent to resume practice. This period of suspension will not apply to the reduction of this
8 probationary time period.

9 If Respondent fails to have the above assessment submitted to the Board within the 45-day
10 requirement, Respondent shall immediately cease practice and shall not resume practice until
11 notified by the Board. This period of suspension will not apply to the reduction of this
12 probationary time period. The Board may waive or postpone this suspension only if significant,
13 documented evidence of mitigation is provided. Such evidence must establish good faith efforts
14 by Respondent to obtain the assessment, and a specific date for compliance must be provided.
15 Only one such waiver or extension may be permitted.

16 18. **Therapy or Counseling Program.** Respondent, at his expense, shall
17 participate in an on-going counseling program until such time as the Board releases him from this
18 requirement and only upon the recommendation of the counselor. Written progress reports from
19 the counselor will be required at various intervals.

20 ACCEPTANCE

21 I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the
22 stipulation and the effect it will have on my Registered Nurse License. I enter into this
23 Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree
24 to be bound by the Decision and Order of the Board of Registered Nursing.

25
26 DATED: 11/8/10

27 
28 LUIS LANDICHO EMPALMADO
Respondent

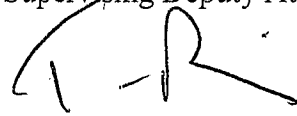
ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Registered Nursing of the Department of Consumer Affairs.

Dated: 11/9/10

Respectfully Submitted,

EDMUND G. BROWN JR.
Attorney General of California
KAREN B. CHAPPELLE
Supervising Deputy Attorney General


THOMAS L. RINALDI
Deputy Attorney General
Attorneys for Complainant

LA2010501599
60577121.doc

Exhibit A

Petition to Revoke Probation No. 2007-39

1 EDMUND G. BROWN JR.
Attorney General of California
2 KAREN B. CHAPPELLE
Supervising Deputy Attorney General
3 THOMAS L. RINALDI
Deputy Attorney General
4 State Bar No. 206911
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2541
6 Facsimile: (213) 897-2804
Attorneys for Complainant

7
8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Petition to Revoke
11 Probation Against,

Case No. 2007-39

12 **LUIS LANDICHO EMPALMADO**
13 **1432 El Paso Drive**
Los Angeles, CA 90065
14 **Registered Nurse License No. RN 514907**

PETITION TO REVOKE PROBATION

15 One.

16 Complainant alleges:

17 PARTIES

18 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Petition to Revoke Probation
19 solely in her official capacity as the Interim Executive Officer of the Board of Registered
20 Nursing, Department of Consumer Affairs.

21 2. On or about August 24, 1995, the Board of Registered Nursing issued Registered
22 Nurse License Number RN 514907 to Luis Landicho Empalmado (Respondent). The Registered
23 Nurse License was in effect at all times relevant to the charges brought herein and will expire on
24 November 30, 2010, unless renewed.

25 3. In a disciplinary action entitled "In the Matter of the Accusation Against Luis
26 Landicho Empalmado," Case No. 2007-39, the Board of Registered Nursing, issued a decision,
27 effective May 14, 2007, in which Respondent's Registered Nurse License was revoked.
28 However, the revocation was stayed and Respondent's license placed on probation for a period of

1 three (3) years with certain terms and conditions. A copy of that decision is attached as Exhibit A
2 and incorporated by reference.

3 JURISDICTION

4 4. This Petition to Revoke Probation is brought before the Board of Registered Nursing
5 (Board), Department of Consumer Affairs, under the authority of the following laws. All section
6 references are to the Business and Professions Code unless otherwise indicated.

7 FIRST CAUSE TO REVOKE PROBATION

8 (Employment Approval and Reporting Requirements)

9 5. At all times after the effective date of Respondent's probation, Condition 7 stated:

10 "Respondent shall obtain prior approval from the Board before commencing any
11 employment, paid or voluntary, as a registered nurse. Respondent shall cause to be submitted to
12 the Board all performance evaluations and other employment related reports as a registered nurse
13 upon request of the Board."

14 "Respondent shall provide a copy of this decision to his employer and immediate
15 supervisor prior to commencement of any nursing or other health care related employment."

16 "Respondent shall notify the Board in writing within 72 hours after he obtains any nursing
17 or other health care related employment, when such employment is not as a registered nurse.
18 Respondent shall notify the Board in writing within 72 hours after he is terminated from any
19 registered nursing, other nursing, or other health care related employment, with a full explanation
20 of the circumstances surrounding the termination."

21 6. Respondent's probation is subject to revocation in that he failed to comply with
22 Term and Condition of Probation No. 7 by beginning employment at San Gabriel Valley Medical
23 Center on March 24, 2008, when he was not approved to begin work at this facility until April 9,
24 2008.

25 SECOND CAUSE TO REVOKE PROBATION

26 (Cost Recovery)

27 7. At all times after the effective date of Respondent's probation, Condition 11 stated:
28

1 "Respondent shall pay to the Board costs associated with its investigation and enforcement
2 pursuant to Business and Professions Code section 125.3 in the amount of \$3,586. Respondent
3 shall be permitted to pay these costs in a payment plan approved by the Board, with payments to
4 be completed no later than three months prior to the end of the probation term."

5 If Respondent has not complied with this condition during the probationary term, and
6 Respondent has presented sufficient documentation of his good faith efforts to comply with this
7 condition, and if no other conditions have been violated, the Board, in its discretion, may grant an
8 extension of Respondent's probation period up to one year without further hearing in order to
9 comply with this condition. During the one year extension, all original conditions of probation
10 will apply.

11 8. Respondent's probation is subject to revocation because he failed to comply with
12 Probation Condition No. 11 in that he has failed to pay the remaining balance of cost recovery in
13 the amount of \$1,586 within three months prior to the end of the probation term.

14 THIRD CAUSE TO REVOKE PROBATION

15 (Failure to Comply with Board's Probation Program)

16 9. At all times after the effective date of Respondent's probation, Condition 2 stated:

17 "Respondent shall fully comply with the terms and conditions of the Probation Program
18 established by the Board and cooperate with representatives of the Board in its monitoring and
19 investigation of the Respondent's compliance with the Probation Program. Respondent shall
20 inform the Board in writing within no more than 15 days of any address change and shall at all
21 times maintain an active, current license status with the Board, including during any period of
22 suspension."

23 10. Respondent's probation is subject to revocation for failure to comply with Term
24 and Condition of Probation No. 2 in that he failed to comply fully with the Board's Probation
25 Program as follows:

26 a. Respondent represented that he had not been disciplined by his employer, San
27 Gabriel Valley Medical Center, when in fact he had been disciplined on two occasions.
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1 b. Respondent represented that he had ensured that his employer, San Gabriel
2 Valley Medical Center, was providing the required level of supervision, when he in fact, his
3 Work Site Monitor(s) were unaware of his disciplinary history with the Board and were not
4 providing the required level of discipline.

5 c. Respondent further failed to comply with the Board's Probation Program for
6 the reasons identified in Cause To Revoke Probation Nos. 1-2 above.

7 PRAYER

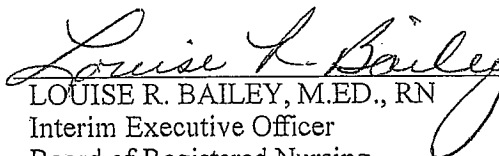
8 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
9 and that following the hearing, the Board of Registered Nursing issue a decision:

10 1. Revoking the probation that was granted by the Board of Registered Nursing in Case
11 No. 2007-39 and imposing the disciplinary order that was stayed thereby revoking Registered
12 Nurse License No. RN 514907 issued to Luis Landicho Empalmado;

13 2. Revoking or suspending Registered Nurse License No. RN 514907, issued to Luis
14 Landicho Empalmado;

15 3. Taking such other and further action as deemed necessary and proper.

16
17 DATED: 07-23-10


LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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pet revoke prob.rtf
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Exhibit A

Decision and Order

Board of Registered Nursing Case No. 2007-39

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

LUIS LANDICHO EMPALMADO
1432 El Paso Drive
Los Angeles, CA 90065

Registered Nurse License No. 514907

Respondent.

Case No. 2007-39

OAH No.

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on MAY 14, 2007.

It is so ORDERED April 12, 2007.

LaTranene W Tate

FOR THE BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS

1 BILL LOCKYER, Attorney General
of the State of California
2 JENNIFER S. CADY
Deputy Attorney General
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Deputy Attorney General
4 California Department of Justice
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2541
6 Facsimile: (213) 897-2804

7 Attorneys for Complainant

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 2007-39

12 LUIS LANDICHO EMPALMADO
1432 El Paso Drive
13 Los Angeles, CA 90065

OAH No. L-2006100182

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

14
15 Registered Nurse License No. 514907

16 Respondent.

17
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
19 above-entitled proceedings that the following matters are true:

20 **PARTIES**

21 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) is the Executive Officer of
22 the Board of Registered Nursing. She brought this action solely in her official capacity and is
23 represented in this matter by Bill Lockyer, Attorney General of the State of California, by
24 Thomas L. Rinaldi, Deputy Attorney General.

25 2. Respondent Luis Landicho Empalmado (Respondent) is representing
26 himself in this proceeding and has chosen not to exercise his right to be represented by counsel.

27 3. On or about August 24, 1995, the Board of Registered Nursing issued
28 Registered Nurse License No. 514907 to Respondent. The License was in full force and effect at

1 all times relevant to the charges brought in Accusation No. 2007-39 and will expire on
2 November 30, 2006, unless renewed.

3 JURISDICTION

4 4. Accusation No. 2007-39 was filed before the Board of Registered Nursing
5 (Board), Department of Consumer Affairs, and is currently pending against Respondent. The
6 Accusation and all other statutorily required documents were properly served on Respondent on
7 September 5, 2006. Respondent timely filed his Notice of Defense contesting the Accusation. A
8 copy of Accusation No. 2007-39 is attached as exhibit A and incorporated herein by reference.

9 ADVISEMENT AND WAIVERS

10 5. Respondent has carefully read, and understands the charges and allegations
11 in Accusation No. 2007-39. Respondent has also carefully read, and understands the effects of
12 this Stipulated Settlement and Disciplinary Order.

13 6. Respondent is fully aware of his legal rights in this matter, including the
14 right to a hearing on the charges and allegations in the Accusation; the right to be represented by
15 counsel at his own expense; the right to confront and cross-examine the witnesses against him;
16 the right to present evidence and to testify on his own behalf; the right to the issuance of
17 subpoenas to compel the attendance of witnesses and the production of documents; the right to
18 reconsideration and court review of an adverse decision; and all other rights accorded by the
19 California Administrative Procedure Act and other applicable laws.

20 7. Respondent voluntarily, knowingly, and intelligently waives and gives up
21 each and every right set forth above.

22 CULPABILITY

23 8. Respondent admits the truth of each and every charge and allegation in
24 Accusation No. 2007-39.

25 9. Respondent agrees that his Registered Nurse License is subject to
26 discipline and he agrees to be bound by the Board of Registered Nursing (Board)'s imposition of
27 discipline as set forth in the Disciplinary Order below.

1 CONTINGENCY

2 10. This stipulation shall be subject to approval by the Board of Registered
3 Nursing. Respondent understands and agrees that counsel for Complainant and the staff of the
4 Board of Registered Nursing may communicate directly with the Board regarding this stipulation
5 and settlement, without notice to or participation by Respondent. By signing the stipulation,
6 Respondent understands and agrees that he may not withdraw his agreement or seek to rescind
7 the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt
8 this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall
9 be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action
10 between the parties, and the Board shall not be disqualified from further action by having
11 considered this matter.

12 11. The parties understand and agree that facsimile copies of this Stipulated
13 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same
14 force and effect as the originals.

15 12. In consideration of the foregoing admissions and stipulations, the parties
16 agree that the Board may, without further notice or formal proceeding, issue and enter the
17 following Disciplinary Order:

18 DISCIPLINARY ORDER

19 IT IS HEREBY ORDERED that Registered Nurse License No. 514907 issued to
20 Respondent is revoked. However, the revocation is stayed and Respondent is placed on
21 probation for three (3) years on the following terms and conditions.

22 **Severability Clause.** Each condition of probation contained herein is a separate
23 and distinct condition. If any condition of this Order, or any application thereof, is declared
24 unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other
25 applications thereof, shall not be affected. Each condition of this Order shall separately be valid
26 and enforceable to the fullest extent permitted by law.

27 1. **Obey All Laws.** Respondent shall obey all federal, state and local laws.
28 A full and detailed account of any and all violations of law shall be reported by Respondent to

1 the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of
2 compliance with this condition, Respondent shall submit completed fingerprint forms and
3 fingerprint fees within 45 days of the effective date of the decision, unless previously submitted
4 as part of the licensure application process.

5 **Criminal Court Orders:** If Respondent is under criminal court orders, including
6 probation or parole, and the order is violated, this shall be deemed a violation of these probation
7 conditions, and may result in the filing of an accusation and/or petition to revoke probation.

8 2. **Comply with the Board's Probation Program.** Respondent shall fully
9 comply with the conditions of the Probation Program established by the Board and cooperate
10 with representatives of the Board in its monitoring and investigation of the Respondent's
11 compliance with the Board's Probation Program. Respondent shall inform the Board in writing
12 within no more than 15 days of any address change and shall at all times maintain an active,
13 current license status with the Board, including during any period of suspension.

14 Upon successful completion of probation, Respondent's license shall be fully
15 restored.

16 3. **Report in Person.** Respondent, during the period of probation, shall
17 appear in person at interviews/meetings as directed by the Board or its designated
18 representatives.

19 4. **Residency, Practice, or Licensure Outside of State.** Periods of
20 residency or practice as a registered nurse outside of California shall not apply toward a reduction
21 of this probation time period. Respondent's probation is tolled, if and when he resides outside of
22 California. Respondent must provide written notice to the Board within 15 days of any change of
23 residency or practice outside the state, and within 30 days prior to re-establishing residency or
24 returning to practice in this state.

25 Respondent shall provide a list of all states and territories where he has ever been
26 licensed as a registered nurse, vocational nurse, or practical nurse. Respondent shall further
27 provide information regarding the status of each license and any changes in such license status
28 during the term of probation. Respondent shall inform the Board if he applies for or obtains a

1 new nursing license during the term of probation.

2 **5. Submit Written Reports.** Respondent, during the period of probation,
3 shall submit or cause to be submitted such written reports/declarations and verification of actions
4 under penalty of perjury, as required by the Board. These reports/declarations shall contain
5 statements relative to Respondent's compliance with all the conditions of the Board's Probation
6 Program. Respondent shall immediately execute all release of information forms as may be
7 required by the Board or its representatives.

8 Respondent shall provide a copy of this Decision to the nursing regulatory agency
9 in every state and territory in which he has a registered nurse license.

10 **6. Function as a Registered Nurse.** Respondent, during the period of
11 probation, shall engage in the practice of registered nursing in California for a minimum of 24
12 hours per week for 6 consecutive months or as determined by the Board.

13 For purposes of compliance with the section, "engage in the practice of registered
14 nursing" may include, when approved by the Board, volunteer work as a registered nurse, or
15 work in any non-direct patient care position that requires licensure as a registered nurse.

16 The Board may require that advanced practice nurses engage in advanced practice
17 nursing for a minimum of 24 hours per week for 6 consecutive months or as determined by the
18 Board.

19 If Respondent has not complied with this condition during the probationary term,
20 and Respondent has presented sufficient documentation of his good faith efforts to comply with
21 this condition, and if no other conditions have been violated, the Board, in its discretion, may
22 grant an extension of Respondent's probation period up to one year without further hearing in
23 order to comply with this condition. During the one year extension, all original conditions of
24 probation shall apply.

25 **7. Employment Approval and Reporting Requirements.** Respondent
26 shall obtain prior approval from the Board before commencing or continuing any employment,
27 paid or voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all
28 performance evaluations and other employment related reports as a registered nurse upon request

1 of the Board.

2 Respondent shall provide a copy of this Decision to his employer and immediate
3 supervisors prior to commencement of any nursing or other health care related employment.

4 In addition to the above, Respondent shall notify the Board in writing within
5 seventy-two (72) hours after he obtains any nursing or other health care related employment.

6 Respondent shall notify the Board in writing within seventy-two (72) hours after he is terminated
7 or separated, regardless of cause, from any nursing, or other health care related employment with
8 a full explanation of the circumstances surrounding the termination or separation.

9 8. **Supervision.** Respondent shall obtain prior approval from the Board
10 regarding Respondent's level of supervision and/or collaboration before commencing or
11 continuing any employment as a registered nurse, or education and training that includes patient
12 care.

13 Respondent shall practice only under the direct supervision of a registered nurse
14 in good standing (no current discipline) with the Board of Registered Nursing, unless alternative
15 methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician)
16 are approved.

17 Respondent's level of supervision and/or collaboration may include, but is not
18 limited to the following:

19 (a) Maximum - The individual providing supervision and/or collaboration is
20 present in the patient care area or in any other work setting at all times.

21 (b) Moderate - The individual providing supervision and/or collaboration is in
22 the patient care unit or in any other work setting at least half the hours Respondent works.

23 (c) Minimum - The individual providing supervision and/or collaboration has
24 person-to-person communication with Respondent at least twice during each shift worked.

25 (d) Home Health Care - If Respondent is approved to work in the home health
26 care setting, the individual providing supervision and/or collaboration shall have person-to-
27 person communication with Respondent as required by the Board each work day. Respondent
28 shall maintain telephone or other telecommunication contact with the individual providing

1 supervision and/or collaboration as required by the Board during each work day. The individual
2 providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-
3 site visits to patients' homes visited by Respondent with or without Respondent present.

4 **9. Employment Limitations.** Respondent shall not work for a nurse's
5 registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a
6 traveling nurse, or for an in-house nursing pool.

7 Respondent shall not work for a licensed home health agency as a visiting nurse
8 unless the registered nursing supervision and other protections for home visits have been
9 approved by the Board. Respondent shall not work in any other registered nursing occupation
10 where home visits are required.

11 Respondent shall not work in any health care setting as a supervisor of registered
12 nurses. The Board may additionally restrict Respondent from supervising licensed vocational
13 nurses and/or unlicensed assistive personnel on a case-by-case basis.

14 Respondent shall not work as a faculty member in an approved school of nursing
15 or as an instructor in a Board approved continuing education program.

16 Respondent shall work only on a regularly assigned, identified and predetermined
17 worksite(s) and shall not work in a float capacity.

18 If Respondent is working or intends to work in excess of 40 hours per week, the
19 Board may request documentation to determine whether there should be restrictions on the hours
20 of work.

21 **10. Complete a Nursing Course(s).** Respondent, at his own expense, shall
22 enroll and successfully complete a course(s) relevant to the practice of registered nursing no later
23 than six months prior to the end of his probationary term.

24 Respondent shall obtain prior approval from the Board before enrolling in the
25 course(s). Respondent shall submit to the Board the original transcripts or certificates of
26 completion for the above required course(s). The Board shall return the original documents to
27 Respondent after photocopying them for its records.

28 **11. Cost Recovery.** Respondent shall pay to the Board costs associated with

1 its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the
2 amount of \$3,586. Respondent shall be permitted to pay these costs in a payment plan approved
3 by the Board, with payments to be completed no later than three months prior to the end of the
4 probation term.

5 If Respondent has not complied with this condition during the probationary term,
6 and Respondent has presented sufficient documentation of his good faith efforts to comply with
7 this condition, and if no other conditions have been violated, the Board, in its discretion, may
8 grant an extension of Respondent's probation period up to one year without further hearing in
9 order to comply with this condition. During the one year extension, all original conditions of
10 probation will apply.

11 **12. Violation of Probation.** If Respondent violates the conditions of his
12 probation, the Board after giving Respondent notice and an opportunity to be heard, may set
13 aside the stay order and impose the stayed discipline (revocation/suspension) of Respondent's
14 license.

15 If during the period of probation, an accusation or petition to revoke probation has
16 been filed against Respondent's license or the Attorney General's Office has been requested to
17 prepare an accusation or petition to revoke probation against Respondent's license, the
18 probationary period shall automatically be extended and shall not expire until the accusation or
19 petition has been acted upon by the Board.

20 **13. License Surrender.** During Respondent's term of probation, if he ceases
21 practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of
22 probation, Respondent may surrender his license to the Board. The Board reserves the right to
23 evaluate Respondent's request and to exercise its discretion whether to grant the request, or to
24 take any other action deemed appropriate and reasonable under the circumstances, without
25 further hearing. Upon formal acceptance of the tendered license and wall certificate, Respondent
26 will no longer be subject to the conditions of probation.

27 Surrender of Respondent's license shall be considered a disciplinary action and
28 shall become a part of Respondent's license history with the Board. A registered nurse whose

1 license has been surrendered may petition the Board for reinstatement no sooner than the
2 following minimum periods from the effective date of the disciplinary decision:

3 (1) Two years for reinstatement of a license that was surrendered for any
4 reason other than a mental or physical illness; or

5 (2) One year for a license surrendered for a mental or physical illness.

6 14. **Physical Examination.** Within 45 days of the effective date of this
7 Decision, Respondent, at his expense, shall have a licensed physician, nurse practitioner, or
8 physician assistant, who is approved by the Board before the assessment is performed, submit an
9 assessment of the Respondent's physical condition and capability to perform the duties of a
10 registered nurse. Such an assessment shall be submitted in a format acceptable to the Board. If
11 medically determined, a recommended treatment program will be instituted and followed by the
12 Respondent with the physician, nurse practitioner, or physician assistant providing written
13 reports to the Board on forms provided by the Board.

14 If Respondent is determined to be unable to practice safely as a registered nurse,
15 the licensed physician, nurse practitioner, or physician assistant making this determination shall
16 immediately notify the Board and Respondent by telephone, and the Board shall request that the
17 Attorney General's office prepare an accusation or petition to revoke probation. Respondent
18 shall immediately cease practice and shall not resume practice until notified by the Board.
19 During this period of suspension, Respondent shall not engage in any practice for which a license
20 issued by the Board is required until the Board has notified Respondent that a medical
21 determination permits Respondent to resume practice. This period of suspension will not apply
22 to the reduction of this probationary time period.

23 If Respondent fails to have the above assessment submitted to the Board within
24 the 45-day requirement, Respondent shall immediately cease practice and shall not resume
25 practice until notified by the Board. This period of suspension will not apply to the reduction of
26 this probationary time period. The Board may waive or postpone this suspension only if
27 significant, documented evidence of mitigation is provided. Such evidence must establish good
28 faith efforts by Respondent to obtain the assessment, and a specific date for compliance must be

1 provided. Only one such waiver or extension may be permitted.

2 15. **Participate in Treatment/Rehabilitation Program for Chemical**
3 **Dependence.** Respondent, at his expense, shall successfully complete during the probationary
4 period or shall have successfully completed prior to commencement of probation a Board-
5 approved treatment/rehabilitation program of at least six months duration. As required, reports
6 shall be submitted by the program on forms provided by the Board. If Respondent has not
7 completed a Board-approved treatment/rehabilitation program prior to commencement of
8 probation, Respondent, within 45 days from the effective date of the decision, shall be enrolled in
9 a program. If a program is not successfully completed within the first nine months of probation,
10 the Board shall consider Respondent in violation of probation.

11 Based on Board recommendation, each week Respondent shall be required to
12 attend at least one, but no more than five 12-step recovery meetings or equivalent (e.g., Narcotics
13 Anonymous, Alcoholics Anonymous, etc.) and a nurse support group as approved and directed
14 by the Board. If a nurse support group is not available, an additional 12-step meeting or
15 equivalent shall be added. Respondent shall submit dated and signed documentation confirming
16 such attendance to the Board during the entire period of probation. Respondent shall continue
17 with the recovery plan recommended by the treatment/rehabilitation program or a licensed
18 mental health examiner and/or other ongoing recovery groups.

19 16. **Abstain from Use of Psychotropic (Mood-Altering) Drugs.** Respondent
20 shall completely abstain from the possession, injection or consumption by any route of all
21 controlled substances and all psychotropic (mood altering) drugs, including alcohol, except when
22 the same are ordered by a health care professional legally authorized to do so as part of
23 documented medical treatment. Respondent shall have sent to the Board, in writing and within
24 fourteen (14) days, by the prescribing health professional, a report identifying the medication,
25 dosage, the date the medication was prescribed, the Respondent's prognosis, the date the
26 medication will no longer be required, and the effect on the recovery plan, if appropriate.

27 Respondent shall identify for the Board a single physician, nurse practitioner or
28 physician assistant who shall be aware of Respondent's history of substance abuse and will

1 coordinate and monitor any prescriptions for Respondent for dangerous drugs, controlled
2 substances or mood-altering drugs. The coordinating physician, nurse practitioner, or physician
3 assistant shall report to the Board on a quarterly basis Respondent's compliance with this
4 condition. If any substances considered addictive have been prescribed, the report shall identify a
5 program for the time limited use of any such substances.

6 The Board may require the single coordinating physician, nurse practitioner, or
7 physician assistant to be a specialist in addictive medicine, or to consult with a specialist in
8 addictive medicine.

9 17. **Submit to Tests and Samples.** Respondent, at his expense, shall
10 participate in a random, biological fluid testing or a drug screening program which the Board
11 approves. The length of time and frequency will be subject to approval by the Board.
12 Respondent is responsible for keeping the Board informed of Respondent's current telephone
13 number at all times. Respondent shall also ensure that messages may be left at the telephone
14 number when he is not available and ensure that reports are submitted directly by the testing
15 agency to the Board, as directed. Any confirmed positive finding shall be reported immediately
16 to the Board by the program and Respondent shall be considered in violation of probation.

17 In addition, Respondent, at any time during the period of probation, shall fully
18 cooperate with the Board or any of its representatives, and shall, when requested, submit to such
19 tests and samples as the Board or its representatives may require for the detection of alcohol,
20 narcotics, hypnotics, dangerous drugs, or other controlled substances.

21 If Respondent has a positive drug screen for any substance not legally authorized
22 and not reported to the coordinating physician, nurse practitioner, or physician assistant, and the
23 Board files a petition to revoke probation or an accusation, the Board may suspend Respondent
24 from practice pending the final decision on the petition to revoke probation or the accusation.
25 This period of suspension will not apply to the reduction of this probationary time period.

26 If Respondent fails to participate in a random, biological fluid testing or drug
27 screening program within the specified time frame, Respondent shall immediately cease practice
28 and shall not resume practice until notified by the Board. After taking into account documented

1 evidence of mitigation, if the Board files a petition to revoke probation or an accusation, the
2 Board may suspend Respondent from practice pending the final decision on the petition to
3 revoke probation or the accusation. This period of suspension will not apply to the reduction of
4 this probationary time period.

5 18. **Mental Health Examination.** Respondent shall, within 45 days of the
6 effective date of this Decision, have a mental health examination including psychological testing
7 as appropriate to determine his capability to perform the duties of a registered nurse. The
8 examination will be performed by a psychiatrist, psychologist or other licensed mental health
9 practitioner approved by the Board. The examining mental health practitioner will submit a
10 written report of that assessment and recommendations to the Board. All costs are the
11 responsibility of Respondent. Recommendations for treatment, therapy or counseling made as a
12 result of the mental health examination will be instituted and followed by Respondent.

13 If Respondent is determined to be unable to practice safely as a registered nurse,
14 the licensed mental health care practitioner making this determination shall immediately notify
15 the Board and Respondent by telephone, and the Board shall request that the Attorney General's
16 office prepare an accusation or petition to revoke probation. Respondent shall immediately cease
17 practice and may not resume practice until notified by the Board. During this period of
18 suspension, Respondent shall not engage in any practice for which a license issued by the Board
19 is required, until the Board has notified Respondent that a mental health determination permits
20 Respondent to resume practice. This period of suspension will not apply to the reduction of this
21 probationary time period.

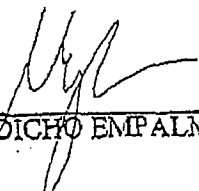
22 If Respondent fails to have the above assessment submitted to the Board within
23 the 45-day requirement, Respondent shall immediately cease practice and shall not resume
24 practice until notified by the Board. This period of suspension will not apply to the reduction of
25 this probationary time period. The Board may waive or postpone this suspension only if
26 significant, documented evidence of mitigation is provided. Such evidence must establish good
27 faith efforts by Respondent to obtain the assessment, and a specific date for compliance must be
28 provided. Only one such waiver or extension may be permitted.

19. **Therapy or Counseling Program.** Respondent, at his expense, shall participate in an on-going counseling program until such time as the Board releases him from this requirement and only upon the recommendation of the counselor. Written progress reports from the counselor will be required at various intervals.

ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on my Registered Nurse License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Registered Nursing.

DATED: 1/3/07



LUIS LANDICHO EMPALMADO
Respondent

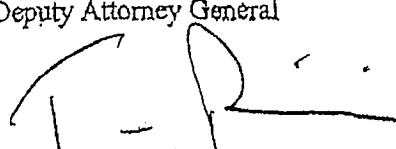
ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Registered Nursing of the Department of Consumer Affairs.

DATED: 1/29/07

BILL LOCKYER, Attorney General
of the State of California

JENNIFER S. CADY
Deputy Attorney General



THOMAS L. RINALDI
Deputy Attorney General

Attorneys for Complainant

DOJ Matter ID: LA2005600407

Exhibit A

Accusation No. 2007-39

1 BILL LOCKYER, Attorney General
of the State of California
2 THOMAS L. RINALDI, State Bar No. 206911
Deputy Attorney General
3 California Department of Justice
300 So. Spring Street, Suite 1702
4 Los Angeles, CA 90013
Telephone: (213) 897-2541
5 Facsimile: (213) 897-2804

6 Attorneys for Complainant

7 **BEFORE THE**
BOARD OF REGISTERED NURSING
8 **DEPARTMENT OF CONSUMER AFFAIRS**
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 2007-39

11 LUIS LANDICHO EMPALMADO
1432 El Paso Drive
12 Los Angeles, CA 90065

ACCUSATION

13 Registered Nurse License No. 514907

14 Respondent.

15
16 Complainant alleges:

17 PARTIES

18 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Accusation
19 solely in her official capacity as the Executive Officer of the Board of Registered Nursing
20 (Board), Department of Consumer Affairs.

21 2. On or about August 24, 1995, the Board issued Registered Nurse License
22 No. 514907 to Luis Landicho Empalmado (Respondent). The Registered Nurse License was in
23 full force and effect at all times relevant to the charges brought herein and will expire on
24 November 30, 2006, unless renewed.

25 JURISDICTION

26 3. This Accusation is brought before the Board, under the authority of the
27 following laws. All section references are to the Business and Professions Code unless otherwise
28 indicated.

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1 drug, unless upon the written prescription of a physician, dentist, podiatrist, or veterinarian
2 licensed to practice in this state, shall be punished by imprisonment in the state prison."

3 9. Section 125.3 of the Code provides, in pertinent part, that the Board may
4 request the administrative law judge to direct a licentiate found to have committed a violation or
5 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
6 and enforcement of the case.

7 10. CONTROLLED SUBSTANCE

8 "Dilaudid," is a trade name for hydromorphone. It is a Schedule II controlled
9 substance, as designated by Health and Safety Code section 11055, subdivision (b)(1)(J) and is
10 categorized as a "dangerous drug" pursuant to Business and Professions Code section 4022.

11 CITY OF ANGELS MEDICAL CENTER

12 11. In or about December of 2003, a routine narcotic audit conducted by City
13 of Angels Medical Center staff revealed that several Dilaudid tubexes had been tampered with.
14 Certain tubexes were found to have broken seals that were either taped glued back on, were
15 empty, or were diluted with either water or a saline mixture. When questioned regarding the
16 tampered Dilaudid tubexes, Respondent acknowledged the re-emergence of a substance abuse
17 problem and admitted diverting Dilaudid from the hospital over a three month period.

18 FIRST CAUSE FOR DISCIPLINE

19 (Obtained or Possessed a Controlled Substance)

20 12. Respondent's license is subject to disciplinary action under section
21 2761(a), on the grounds of unprofessional conduct, as defined by section 2762(a), in that while
22 employed as a registered nurse at City of Angels Medical Center, Respondent obtained and/or
23 possessed a controlled substance, Dilaudid, in violation of law as further described in paragraph
24 11.

25 PRIOR DISCIPLINE

26 13. In order to determine the degree of discipline, if any, to be imposed on
27 Respondent, Complainant alleges the following disciplinary history:

28 a. Effective November 22, 1989, in a disciplinary action before the Board of

1 Vocational Nursing and Psychiatric Technicians (Decision No. 4098, L-39735), Respondent's
2 license was revoked, the revocation stayed, and placed on three years probation subject to certain
3 terms and conditions for making grossly incorrect or inconsistent entries in patient records by
4 failing to chart the administration of demerol, a controlled substance.

5 b. Effective July 18, 1992, in a disciplinary action before the Board of
6 Vocational Nursing and Psychiatric Technicians (Decision No. 5330, L-55094), the stay -
7 referenced in paragraph 13(a) was set aside and Respondent's license revoked when it was found
8 that he obtained demerol or morphine through subterfuge, administered said substances to
9 himself, and reported to work under the influence of cocaine.

10 c. In a disciplinary action entitled *In the Matter of the Statement of Issues*
11 *Against: Luis L. Empalmado*, Case No. 94-171, the Board of Registered Nursing, issued a
12 decision, effective February 25, 1995, which issued Respondent a Registered Nurse License that
13 was placed on probation for a period of three (3) years subject to certain terms and conditions.

14 PRAYER

15 WHEREFORE, Complainant requests that a hearing be held on the matters herein
16 alleged, and that following the hearing, the Board issue a decision:

17 1. Revoking or suspending Registered Nurse License No. 514907, issued to
18 Luis Landicho Empalmado.

19 2. Ordering Luis Landicho Empalmado to pay the Board the reasonable costs
20 of the investigation and enforcement of this case, pursuant to Business and Professions Code
21 section 125.3;

22 3. Taking such other and further action as deemed necessary and proper.

23 DATED: August 24, 2006

24 Olivia H. Terry for
25 RUTH ANN TERRY, M.P.H., R.N.
26 Executive Officer
27 Board of Registered Nursing
28 State of California
Complainant

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BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation
Against:

LUIS L. EMPALMADO
4326-1/2 Gateway Avenue
Los Angeles, California 90029

Respondent.

No. 94-171

OAH No. L-63660

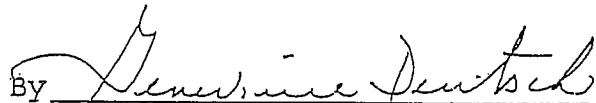
The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Board of Registered Nursing as its decision in the above-entitled matter.

This Decision shall become effective February 25, 1995.

IT IS SO ORDERED this 25th day of January, 1995.

BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



GENEVIEVE D.R. DEUTSCH, RNC, OGNP
President

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Statement of)
Issues Against:)

LUIS L. EMPALMADO)
904 1/2 Rector Place)
Los Angeles, CA 90029,)

Respondent)

No. 94-171

OAH No. L-63660

PROPOSED DECISION

This matter was heard by Humberto Flores, Administrative Law Judge with the Office of Administrative Hearings, in Los Angeles, California, on September 1, 1994.

Gary M. James, Deputy Attorney General, represented the Complainant. Respondent, Luis L. Empalmado, was present and represented himself.

Oral and documentary evidence was received and the matter submitted for decision. The Administrative Law Judge finds the following facts:

1. On April 9, 1993, respondent completed an application for licensure as a registered nurse. On April 13, 1993, the Board of Registered Nursing ("Board") received said application.

2. On December 27, 1982, the Board of Vocational Nurse and Psychiatric Technician Examiners issued vocational nurse's license no. 113083 to Luis L. Empalmado ("respondent").

3. (A) Effective on November 22, 1989, in Decision no. 4098, L-39735, the Board of Vocational Nurse and Psychiatric Technician Examiners revoked respondent's license for unprofessional conduct as found as follows: While employed as a vocational nurse at a hospital in Santa Ana, respondent made grossly incorrect or inconsistent entries in patients' records by failing to chart the administration of demerol, a controlled substance. Based on the existence of mitigating factors, the Board stayed revocation and placed respondent on probation for three years on certain terms and conditions.

(B) Effective on July 18, 1992, in Decision no. 5330, L-55094, the Board of Vocational Nurse and Psychiatric Technician Examiners vacated its stay of revocation and revoked respondent's license for engaging in unprofessional conduct and violating terms and conditions of probation as follows: In July 1989, respondent commenced employment at a hospital and failed to give notice of the probationary status of his license. In November 1989, while so employed at the hospital, respondent obtained demerol or morphine through subterfuge and administered said controlled substances to himself. On one occasion in November 1989, he went to work at said employment while under the influence of cocaine.

4. On or about August 30, 1993, respondent filed an application for restoration of revoked vocational nurse license, petitioning for reinstatement of said revoked license. On January 7, 1994, the license was restored under conditions imposed by the Board of Vocational Nurse and Psychiatric Technician Examiners.

5. (A) On November 26, 1989, respondent admitted himself into an in-patient detoxication program at Glendale Memorial Hospital. On his discharge, respondent was referred to an out-patient program for continued rehabilitation.

(B) On November 29, 1989, respondent entered into nine-month, out-patient treatment program for chemically dependent patients at MCC Behavioral Care of California. As required by said treatment program, respondent attended at least two 12-step meetings each week and individual therapy sessions every two weeks and took random urine tests to screen for drug abuse. In addition, he participated in three group therapy sessions each week for eight weeks. Respondent attended all of the individual and group therapy sessions and had negative results on eight urine drug screen tests. His last session with said treatment program was July 10, 1990.

6. (A) Beginning in November 1989 and continuing to the present day, respondent has diligently attended meetings of Alcoholics Anonymous and Narcotics Anonymous two to four times each week.

(B) Respondent attends Alcoholics Anonymous meetings at the AT (Alcoholics Together) Center-Alano Club in Los Angeles. He has sponsors who help him to remain sober and, in turn, has acted as a sponsor himself. Respondent also volunteers at said center by interacting with other recovering addicts and alcoholics and working in a non-profit store.

(C) Respondent recognizes that he is a recovering alcoholic and drug user. He has changed his lifestyle and not drunk alcohol or taken drugs since November 26, 1989. He has been sober for five years.

7. Over the last four years, respondent has made efforts to maintain and upgrade his professional skills and knowledge. Respondent took the following continuing education courses:

- a. In October 1990, he completed a 30-hour homestudy course in the interview and assessment of psychiatric disorders;
- b. In March 1991, he took a 24-hour certification course in directing staff development;
- c. In May 1991, he was awarded one hour in continuing education credit for a self-study course in wound management;
- d. In November 1991, he attended a one-day class which was entitled, "Quality Assurance in Bedside Capillary Blood Glucose Monitoring";
- e. In December 1992, he completed a 30-hour homestudy course in the evaluation and response of vascular problems; and
- f. In May 1993, he participated in five-day, 40-hour nursing review course.

8. From September 8, 1992, until July 21, 1993, respondent was employed as a phlebotomist with BioPath Laboratory Corporation. In said job, he traveled to nursing homes to draw blood and pick up blood samples. Respondent did not work as a vocational nurse at said job but, nevertheless, advised the employer of the status of his nursing license.

9. (A) The concept of rehabilitation does not lend itself to precise calculations of passage of time. Rather, it depends on respondent's honesty and motivation in seeking that elusive goal.

(B) In this case, respondent has shown remorse for his past misconduct and has taken full responsibility for his actions and substance abuse. Respondent has also demonstrated a clear commitment to his recovery from chemical dependency. Indeed, respondent has gone beyond his personal rehabilitation to help others with substance abuse problems by acting as a sponsor. Further, respondent has volunteered a substantial amount of time to the rehabilitation center that helped him. The evidence, as well as respondent's demeanor, comportment and honesty at the hearing made a strong case for total rehabilitation. Therefore, a license to act as a registered nurse should be issued to respondent. However, the seriousness of respondent's misconduct dictates that any license issued to him must contain strict conditions that are appropriate to his past misconduct.

* * * * *

CONCLUSIONS OF LAW

1. Grounds exist to deny respondent's application for licensure as a registered nurse under Business and Professions Code Section 480(a)(3), as a result of action by the Board of Vocational Nurse and Psychiatric Technician Examiners revoking his vocational nurse license.

2. Grounds exist to deny respondent's application for licensure as a registered nurse under Business and Professions Code Sections 2761(a) and 2762(a), for unprofessional conduct and self administration of controlled substances.

3. Grounds exist to deny respondent's application for licensure as a registered nurse under Business and Professions Code Sections 2761(a) and 2761(e), for unprofessional conduct and for making false or grossly incorrect or unintelligible entries in hospital or patient records regarding controlled substances.

4. Rehabilitation. Based on Findings 4 through 9, respondent established that he is rehabilitated from his past drug use as well as alcohol abuse. He has been sober for five years now. In addition, respondent has maintained his nursing skills and knowledge through continuing education classes. As such, respondent does not present a danger to the public interest and welfare if he is issued a probationary registered nurse license with appropriate terms and conditions.

* * * * *

ORDER

The application of respondent Luis L. Empalmado, for licensure is hereby granted. Upon successful completion of the licensure examination, a license shall be issued to respondent. Said license shall be immediately revoked, the order of revocation stayed and respondent placed on probation for a period of three years with the following terms and conditions:

(1) Respondent shall obey all federal, state and local laws, and all rules, and regulations of the Board of Registered Nursing governing the practice of nursing in California. A full and detailed account of any and all violations of law shall be reported by the respondent to the Board in writing within seventy-two (72) hours of occurrence.

(2) Respondent shall fully comply with the terms and conditions of the Probation Program established by the Board and cooperate with representatives of the Board in its monitoring and investigation of the respondent's compliance with the Program.

(3) Respondent, during the period of probation, shall appear in person at interviews/meetings as directed by the Board or its designated representatives.

(4) Periods of residency or practice outside of California will not apply to the reduction of this probationary term. The respondent must provide written notice to the Board within 15 days of any change of residency or practice outside the state.

(5) Respondent, during the period of probation, shall submit such written reports/declarations and verification of actions under penalty of perjury as are required. These declarations shall contain statements relative to respondent's compliance with all the terms and conditions of the Board's Probation Program. Respondent shall immediately execute all release of information forms as may be required by the Board or its representatives.

(6) Respondent, during the period of probation, shall engage in the practice of professional nursing in California for a minimum of 24 hours per week (or as determined by the Board) for 6 consecutive months. Per Section 2732 of the Business and Professions Code, no person shall engage in the practice of registered nursing without holding a license which is in an active status.

(7) The Board shall be informed of and approve of each agency for which the respondent provides nursing services prior to respondent's commencement of work. The respondent shall inform her employer of the reason for and the terms and conditions of probation and shall provide a copy of the Board's decision and order to her employer and immediate supervisor. The employer shall submit performance evaluations and other reports as requested by the Board. Respondent is also required to notify the Board in writing within seventy-two (72) hours after termination of any nursing employment. Any notification of termination shall contain a full explanation of the circumstances surrounding it.

(8) The Board shall be informed of and approve of the level of supervision provided to the respondent while he is functioning as a registered nurse. The appropriate level of supervision must be approved by the Board prior to commencement of work. Respondent shall practice only under the direct supervision of a registered nurse in good standing (no current discipline) with the Board of Registered Nursing.

(9) Respondent may not work for a nurse registry; temporary nurse agency; home care agency; in-house nursing pool; as a nursing supervisor; as a faculty member in an approved school of nursing; or as an instructor in a Board approved continuing education program. Respondent must work only on regularly assigned, identified and predetermined worksite with appropriate supervision as approved by the Board.

(10) Respondent at her expense, shall begin and successfully complete a courses in nursing as directed by the Board prior to engaging in the practice of nursing and prior to the end of the probationary term.

The respondent may be suspended from practicing nursing until the necessary coursework is completed. The content of such courses and the place and conditions of instruction shall be specified by Board representatives at the time of the initial probation meeting based on the nature of the violations. Specific courses must be approved prior to enrollment. The respondent must submit written proof of enrollment and proof of successful completion. Transcripts or certificates of completion must be mailed directly to the Board by the agency or entity instructing the respondent.

Home study or correspondence courses are not acceptable and will not be approved.

(11) Respondent, at his expense, shall successfully complete or shall have successfully completed a treatment/rehabilitation program of at least six months duration which the Board approves. Respondent is to be given credit for the program (MCC Behavioral Care of California) he completed in 1990.

In addition, respondent must attend two 12 step recovery meetings per week (e.g. Narcotics Anonymous, Alcoholic Anonymous, etc.) and a nurse support group as directed by the Board. If a nurse support group is not available, an additional 12 step meeting must be added. Respondent must submit dated and signed documentation confirming such attendance to the Board during the entire period of probation.

(12) Respondent shall completely abstain from the possession, injection or consumption by any route of all psychotropic (mood altering) drugs, including alcohol, except when the same are lawfully prescribed by a licensed physician or dentist as part of documented medical treatment. Respondent shall have sent to the Board, in writing and within fourteen (14) days, by the prescribing physician or dentist, a report identifying the medication, dosage, the date the medication was prescribed, the respondent's prognosis, and the date the medication will no longer be required.

(13) Respondent, at his expense, shall participate in a random, biological fluid testing or drug screening program which the Board approves. The length of time and frequency will be subject to approval by the Board. The respondent is responsible for insuring that reports are submitted directly by the testing agency to the Board, as directed. Any confirmed positive finding shall be reported immediately to the Board by the program and respondent will be considered in violation of probation.

-In addition, respondent, at any time during the period of probation, shall fully cooperate with the Board or any of its representatives, and shall, when requested, submit to such tests and samples as the Board or its representatives may require for the detection of alcohol, narcotics, hypnotics, dangerous drugs, or other controlled substances.

If a respondent violates the conditions of her probation, the Board after giving the respondent notice and an opportunity to be heard, may set aside the stay order and impose the discipline of the respondent's license.

If during the period of probation, an accusation has been filed against respondent's license or the Attorney General's Office has been requested to prepare an accusation against respondent's license, the probation period shall automatically be extended and shall not expire until the accusation has been acted upon by the Board. Upon successful completion of probation, the respondent's license will be fully restored.

DATED:

October 12, 1994

Humberto Flores

HUMBERTO FLORES
Administrative Law Judge
Office of Administrative Hearings

1 DANIEL E. LUNGREN, Attorney General
of the State of California
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4 Telephone: (213) 897-2565

5 Attorneys for Complainant



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10 BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
11 STATE OF CALIFORNIA

12 In the Matter of the Statement of)
Issues Against:)

NO. 94-171

13 LUIS L. EMPALMADO)
14 904 1/2 Rector Place)
15 Los Angeles, California 90029)

STATEMENT OF ISSUES

16 Applicant/Respondent.)

17 Ruth Ann Terry, R.N., M.P.H., as causes for denial of
18 Luis L. Empalmado's application for a registered nurse license,
19 alleges:

20
21 1. Complainant Ruth Ann Terry, R.N., M.P.H., makes and
22 files this statement of issues in her official capacity as
23 Executive Officer, Board of Registered Nursing, Department of
24 Consumer Affairs.

25
26 2. Under Business and Professions Code section
27 2736(a)(3), the commission of any acts or crimes which are

1 grounds for denial of licensure under section 480 of that code,
2 constitute grounds for denial of an application for licensure.

3 Under Business and Professions Code section 480, the
4 Board may deny a license when it finds that the applicant has
5 done any act which if done by a licentiate would be grounds for
6 suspension or revocation of a license.

7 Under Business and Professions Code section 482, the
8 Board shall develop criteria, as set forth in Title 16,
9 California Code of Regulations, section 1445, to evaluate the
10 rehabilitation of a person when considering the denial of a
11 license under Business and Professions Code section 480.

12
13 3. On or about April 13, 1993, the Board of Registered
14 Nursing received Luis L. Empalmado's application for a registered
15 nurse license. On April 9, 1993, Luis L. Empalmado certified
16 under penalty of perjury to the truth and accuracy of the
17 application.

18 On December 27, 1982, the Board of Vocational Nurse and
19 Psychiatric Technician Examiners issued vocational nurse license
20 number 113083 to Luis L. Empalmado. On November 22, 1989, in
21 case number 4098 (L-39735), the Board of Vocational Nurse and
22 Psychiatric Technician Examiners revoked respondent's vocational
23 nurse license. The revocation was stayed and respondent was
24 placed on three years probation. On July 18, 1992, in case
25 number 5330 (L-61859), the Board of Vocational Nurse and
26 Psychiatric Technician Examiners vacated the stay in Decision No.
27 4098 (L-39735) and revoked respondent's license. On August 30,

1 1993, respondent filed an application for restoration of revoked
2 license with the Board of Vocational Nurse and Psychiatric
3 Technician Examiners. On January 7, 1994, the license was
4 restored in a revoked status and placed on probation for three
5 years with conditions.

6
7 4. "Drugs"

8 "Demérol," a brand of meperidine hydrochloride, a
9 derivative of pethidine, is a Schedule II controlled substance as
10 designated by Health and Safety Code section 11055(c)(16).

11 "Morphine" is a Schedule II controlled substance as
12 designated by Health and Safety Code section 11055(b)(1)(M).

13 "Cocaine" is a Schedule II controlled substance as
14 designated by Health and Safety Code section 11055(b)(6).

15 "Vistaril," is a trade name for hydroxyzine
16 hydrochloride, is a dangerous drug within the meaning of Business
17 and Professions Code section 4211 in that it requires a
18 prescription under federal law.

19
20 5. Respondent's application is subject to denial under
21 Business and Professions Code section 480(a)(3) in that on
22 November 22, 1989, while holding vocational nurse license number
23 113083 in California, his license was revoked. The revocation
24 was stayed and respondent was placed on three years probation in
25 case number 4098, entitled In the Matter of the Accusation
26 Against Luis L. Empalmado. Respondent had committed acts
27 pertaining to Demerol, a controlled substance, which were grounds

1 for discipline under Business and Professions Code section
2 2878(a) (unprofessional conduct) in conjunction with section
3 2878.5(e) (falsify, make grossly incorrect, grossly inconsistent
4 or unintelligible entries in hospital or patient records
5 pertaining to controlled substances).

6 These acts would be grounds for discipline, had he been
7 a registered nurse, under Business and Professions Code section
8 2761(a) (unprofessional conduct) in conjunction with section
9 2761(e) (falsify, make grossly incorrect, grossly inconsistent or
10 unintelligible entries in hospital or patient records pertaining
11 to controlled substances).

12
13 6. Respondent's application is subject to denial under
14 Business and Professions Code section 480(a)(3) in that on July
15 18, 1992, while holding vocational nurse license number 113083 in
16 California, the Board of Vocational Nurse and Psychiatric
17 Technician Examiners vacated the stay in decision number 4098 and
18 revoked his license in case number 5330, entitled In the Matter
19 of the Accusation and Petition To Vacate Stay Against Luis
20 Empalmado. Respondent had committed acts pertaining to Demerol,
21 Morphine and Cocaine, controlled substances, and Vistaril, a
22 dangerous drug, which were grounds for discipline under Business
23 and Professions Code section 2878(a) (unprofessional conduct) in
24 conjunction with section 2878.5(a) (obtain, possess or self-
25 administer controlled substances or dangerous drugs without a
26 prescription).

27 These acts would be grounds for discipline, had he been

1 a registered nurse, under Business and Professions Code section
2 2761(a) (unprofessional conduct) in conjunction with section
3 2762(a) (obtain, possess or self-administer controlled substances
4 or dangerous drugs without a prescription).

5
6 WHEREFORE, complainant prays a hearing be had and if
7 the allegations set forth herein, or any of them, are found to be
8 true, that the application of Luis L. Empalmado for licensure be
9 denied.

10 DATED: 5/18/94

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Ruth Ann Terry
RUTH ANN TERRY, R.N., M.P.H.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California

Complainant

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(SM 2/9/94
Rev. 3/8/94
Rev. 4/7/94)